

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

DELBERT McNEIL, JR.,)
)
 Petitioner,)
)
vs.) NO. CIV-07-0089-HE
)
)
BRUCE HOWARD, Warden, JEHCC,)
ET AL.,)
)
 Respondents.)

ORDER

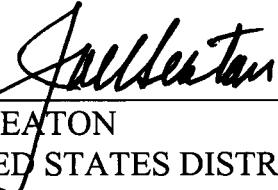
Petitioner Delbert McNeil, Jr., a *pro se* state prisoner, instituted this action pursuant to 28 U.S.C. § 2254, seeking a writ of habeas corpus. Pursuant to 28 U.S.C. § 636(b)(1)(B), this matter was referred to Magistrate Judge Robert E. Bacharach, who recommended that petitioner's "motion to withdraw 28 USC § 2254 without prejudice" be treated as a motion for voluntary dismissal and granted.

No party has objected to the Report and Recommendation and, therefore, any right to appellate review of the factual and legal issues it addressed has been waived. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996). *See* 28 U.S.C. § 636(b)(1); LCvR 72.1(a). The court has also considered the merits of the action and substantially concurs with the Magistrate Judge's analysis.

Accordingly, the court **ADOPTS** the Report and Recommendation and **GRANTS** petitioner's motion to dismiss, dismissing the petition for writ of habeas corpus without prejudice to refiling.

IT IS SO ORDERED.

Dated this 11th day of May, 2007.


JOE HEATON
UNITED STATES DISTRICT JUDGE